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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>San Francisco</b> <b>ACTUAL SUSPENSION</b>		
<b>Counsel for the State Bar</b>  <b>Peter Allen Klivans</b> <b>Deputy Trial Counsel</b> <b>180 Howard Street</b> <b>San Francisco, CA 94105</b> <b>(415) 538-2447</b>  <b>Bar # 236673</b>	<b>Case Number(s):</b> <b>16-O-17692-PEM</b> <b>17-O-7197</b>	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b>  <b>JUL 18 2018</b>  <b>STATE BAR COURT CLERK'S OFFICE</b> <b>SAN FRANCISCO</b>
<b>In Pro Per Respondent</b>  <b>Carla Lou Johansen</b> <b>2414 16th Street #2</b> <b>Sacramento, CA 95818</b> <b>(844) 846-3367</b>  <b>Bar # 221412</b>	<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND</b> <b>DISPOSITION AND ORDER APPROVING</b>  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>	
<b>In the Matter of:</b> <b>CARLA LOU JOHANSEN</b>  <b>Bar # 221412</b>  <b>A Member of the State Bar of California</b> <b>(Respondent)</b>		

**Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.**

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **December 2, 2002**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **20** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."



- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. It is recommended that (check one option only):
- ☒ Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.
- ☐ Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. **SELECT ONE** of the costs must be paid with Respondent's membership fees for each of the following years:
- If Respondent fails to pay any installment as described above, or as may be modified in writing by the State Bar or the State Bar Court, the remaining balance will be due and payable immediately.
- ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs."
- ☐ Costs are entirely waived.

**B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1) ☒ **Prior record of discipline:**
- (a) ☒ State Bar Court case # of prior case: **14-O-06419-PEM, see attached Exhibit 1.**
- (b) ☒ Date prior discipline effective: **April 9, 2016**
- (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code, sections 6106, 6068(i)**
- (d) ☒ Degree of prior discipline: **Private Reproval with Public Disclosure**
- (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.

- (6) ☐ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of Respondent's misconduct.
- (10) ☐ **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of Respondent's misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) ☒ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing.
- (12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) ☒ **Restitution:** Respondent failed to make restitution.
- (14) ☐ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [Standards 1.2(i) & 1.6]. Facts supporting mitigating circumstances are required.**

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) ☐ **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of Respondent's misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of Respondent's misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced Respondent.
- (7) ☐ **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.

- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct, Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by Respondent, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond Respondent's control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in Respondent's personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of Respondent's misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

Emotional/Physical Difficulties, see page 17.  
Pretrial Stipulation, see page 17.

**D. Recommended Discipline:**

- (1) ☐ **Actual Suspension:**

Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.

- Respondent must be suspended from the practice of law for the first \_\_\_\_\_ of the period of Respondent's probation.

- (2) ☐ **Actual Suspension "And Until" Rehabilitation:**

Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first \_\_\_\_\_ of Respondent's probation and until Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

- (3) ☐ **Actual Suspension "And Until" Restitution (Single Payee) and Rehabilitation:**

Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first \_\_\_\_\_ of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:

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- a. Respondent makes restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ plus 10 percent interest per year from \_\_\_\_\_ (or reimburses the Client Security Fund to the extent of any payment from the Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and
- b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(4) ☐ **Actual Suspension "And Until" Restitution (Multiple Payees) and Rehabilitation:**

Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first \_\_\_\_\_ of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:
  - a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

<i>Payee</i>	<i>Principal Amount</i>	<i>Interest Accrues From</i>

- b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(5) ☐ **Actual Suspension "And Until" Restitution (Single Payee) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first \_\_\_\_\_ of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:
  - a. Respondent makes restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ plus 10 percent interest per year from \_\_\_\_\_ (or reimburses the Client Security Fund to the extent of any payment from the Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and
  - b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability

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in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(6) ☒ **Actual Suspension "And Until" Restitution (Multiple Payees) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for **two years**, the execution of that suspension is stayed, and Respondent is placed on probation for **two years** with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first **90 days** of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:
  - a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

<i>Payee</i>	<i>Principal Amount</i>	<i>Interest Accrues From</i>
<b>Scott Cameron</b>	<b>\$9,000</b>	<b>August 1, 2015</b>
<b>Michael Trenberth</b>	<b>\$1,500</b>	<b>September 21, 2016</b>

- b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(7) ☐ **Actual Suspension with Credit for Interim Suspension:**

Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.

- Respondent is suspended from the practice of law for the first \_\_\_\_\_ of probation (with credit given for the period of interim suspension which commenced on \_\_\_\_\_).

**E. Additional Conditions of Probation:**

- (1) ☒ **Review Rules of Professional Conduct:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126, and (2) provide a declaration, under penalty of perjury, attesting to Respondent's compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.

- (2) ☒ **Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions:** Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's probation.
- (3) ☒ **Maintain Valid Official Membership Address and Other Required Contact Information:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.
- (4) ☒ **Meet and Cooperate with Office of Probation:** Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of Respondent's discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation case specialist in person or by telephone. During the probation period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.
- (5) ☒ **State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court:** During Respondent's probation period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with probation conditions. During this period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official membership address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.
- (6) ☒ **Quarterly and Final Reports:**
  - a. **Deadlines for Reports.** Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than ten (10) days before the last day of the probation period and no later than the last day of the probation period.
  - b. **Contents of Reports.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.
  - c. **Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).
  - d. **Proof of Compliance.** Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after either the period of probation

or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

- (7) ☒ **State Bar Ethics School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Ethics School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (8) ☐ **State Bar Ethics School Not Recommended:** It is not recommended that Respondent be ordered to attend the State Bar Ethics School because .
- (9) ☒ **State Bar Client Trust Accounting School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Client Trust Accounting School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Client Trust Accounting School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (10) ☐ **Minimum Continuing Legal Education (MCLE) Courses – California Legal Ethics [Alternative to State Bar Ethics School for Out-of-State Residents]:** Because Respondent resides outside of California, within \_\_\_\_\_ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must either submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session or, in the alternative, complete \_\_\_\_\_ hours of California Minimum Continuing Legal Education-approved participatory activity in California legal ethics and provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the Ethics School or the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (11) ☐ **Criminal Probation:** Respondent must comply with all probation conditions imposed in the underlying criminal matter and must report such compliance under penalty of perjury in all quarterly and final reports submitted to the Office of Probation covering any portion of the period of the criminal probation. In each quarterly and final report, if Respondent has an assigned criminal probation officer, Respondent must provide the name and current contact information for that criminal probation officer. If the criminal probation was successfully completed during the period covered by a quarterly or final report, that fact must be reported by Respondent in such report and satisfactory evidence of such fact must be provided with it. If, at any time before or during the period of probation, Respondent's criminal probation is revoked, Respondent is sanctioned by the criminal court, or Respondent's status is otherwise changed due to any alleged violation of the criminal probation conditions by Respondent, Respondent must submit the criminal court records regarding any such action with Respondent's next quarterly or final report.
- (12) ☒ **Minimum Continuing Legal Education (MCLE):** Within **one year** after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must complete **six hour(s)** of California Minimum Continuing Legal Education-approved participatory activity in California legal ethics and must provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the hours of legal education described above, completed after the



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date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.

- (13) ☐ **Other:** Respondent must also comply with the following additional conditions of probation:
- (14) ☒ **Proof of Compliance with Rule 9.20 Obligations:** Respondent is directed to maintain, for a minimum of one year after commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court, rule 9.20, subdivisions (a) and (c). Such proof must include: the names and addresses of all individuals and entities to whom Respondent sent notification pursuant to rule 9.20; a copy of each notification letter sent to each recipient; the original receipt or postal authority tracking document for each notification sent; the originals of all returned receipts and notifications of non-delivery; and a copy of the completed compliance affidavit filed by Respondent with the State Bar Court. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.
- (15) ☒ **The following conditions are attached hereto and incorporated:**
- ☐ Financial Conditions ☒ Medical Conditions
- ☐ Substance Abuse Conditions

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

#### **F. Other Requirements Negotiated by the Parties (Not Probation Conditions):**

- (1) ☒ **Multistate Professional Responsibility Examination Within One Year or During Period of Actual Suspension:** Respondent must take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order imposing discipline in this matter or during the period of Respondent's actual suspension, whichever is longer, and to provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If Respondent provides satisfactory evidence of the taking and passage of the above examination after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this requirement.
- (2) ☐ **Multistate Professional Responsibility Examination Requirement Not Recommended:** It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination because
- (3) ☒ **California Rules of Court, Rule 9.20:** Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20

is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (4) ☐ **California Rules of Court, Rule 9.20 – Conditional Requirement:** If Respondent remains suspended for 90 days or longer, Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (5) ☐ **California Rules of Court, Rule 9.20, Requirement Not Recommended:** It is not recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, because

- (6) ☐ **Other Requirements:** It is further recommended that Respondent be ordered to comply with the following additional requirements:

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Attachment language (if any):

**Medical Conditions of probation:**

**Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, clinical social worker, or Marriage and Family Therapist at respondent's own expense a minimum of two times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Treatment must continue during the period of probation or until a motion to modify this condition is granted and that ruling becomes final.**

**Respondent will continue treatment for cataracts, glaucoma, and myopia, including, but not limited to, the use of the appropriate vision aids, i.e., eyeglasses and/or contact lenses, during the period of her probation and declare in each report to the Office of Probation that she has done so.**

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:

CARLA LOU JOHANSEN

CASE NUMBER:

16-O-17692-PEM; 17-O-7197-PEM

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that she is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 16-O-17692-PEM (Complainant: Scott Cameron)

**FACTS:**

1. In 2012, Scott Cameron ("Cameron") employed respondent to represent him in his family law case, *Cameron v. Cameron*, case no. FL01634 in Nevada County Superior Court. After a hearing on February 6, 2014, the court made rulings which respondent recommended Cameron appeal. On April 10, 2014, Cameron paid respondent \$9,000 in advanced fees to appeal the rulings.
2. On January 14, 2015, the Court of Appeal notified respondent that the opening brief in *Cameron v. Cameron* was late, and that the appeal would be dismissed if the opening brief was not filed by January 29, 2015.
3. On February 27, 2015, the Court of Appeal dismissed the appeal because the opening brief had not been filed, even after an extension had been requested and granted.
4. After successfully petitioning to vacate the February 27, 2015 order of dismissal and obtaining an extension of time through April 10, 2015, respondent failed again to file the opening brief, and on April 21, 2015, the Court of Appeal dismissed the appeal for the second and final time.
5. Between February and August 2015, respondent failed to respond to Cameron's status inquiries, including three e-mails sent by Cameron.
6. Respondent failed to inform Cameron of the repeated failures to file the opening brief on appeal.
7. Respondent failed to inform Cameron that the appeal had been dismissed.
8. Respondent also failed to inform Cameron that in April 2015, Tracy Cameron, Scott Cameron's ex-wife, ceased to provide to respondent weekly employment search reports that Tracy Cameron had been ordered to provide.

9. Respondent never filed an opening brief on behalf of Cameron, and, thus, did not earn the \$9,000 advance fee paid to her. To date, respondent has not refunded any part of the unearned advance fee.

10. On August 1, 2015, Cameron, through Cameron's new counsel, requested that respondent release Cameron's client file to the new counsel. Respondent did not timely release Cameron's client file.

11. State Bar investigators sent letters to respondent on January 10, 2017, January 24, 2017, February 7, 2017, and February 16, 2017, which letters respondent received. Respondent sought clarification and additional time to respond to the letters, which were provided, but respondent did not respond in any substantive way to the State Bar's letters.

#### CONCLUSIONS OF LAW:

12. By failing to file the opening brief in the appeal of *Cameron v. Cameron*, and by causing the appeal to be dismissed, respondent intentionally, recklessly, and repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

13. By failing to respond to Cameron's status inquiries including the three e-mails between February and August 2015 regarding the *Cameron v. Cameron* appeal, respondent failed to respond to client inquiries, in willful violation of Business and Professions Code section 6068(m).

14. By failing to inform Cameron that the opening brief on appeal had not been filed in the *Cameron v. Cameron* appeal, by failing to inform Cameron that the appeal had been dismissed, and by failing to inform Cameron that in April 2015, Tracy Cameron, Scott Cameron's ex-wife, ceased to provide to respondent weekly employment search reports that Tracy Cameron had been ordered to provide, respondent failed to inform her client of significant developments, in willful violation of Business and Professions Code section 6068(m).

15. By failing to release the *Cameron* client file on or after August 1, 2015, respondent failed to release promptly after termination of employment all of the client's file, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

16. By failing to refund promptly unearned fees to Cameron upon termination of her employment, respondent failed to refund unearned fees, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

17. By failing to respond substantively to the State Bar's letters of January 10, 2017, January 24, 2017, February 7, 2017, and February 16, 2017, which respondent received, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent in willful violation of Business and Professions Code section 6068(i).

Case No. 17-O-07197-PEM (Complainant: Michael Trenberth)

FACTS:

18. On or about December 5, 2006, Michael Trenberth hired respondent to represent him in a dissolution matter: Nevada County Superior Court case #FL04612, *Trenberth v. Trenberth*. Trenberth paid respondent \$1,500 on December 5, 2006, and a second \$1,500 on January 17, 2007.

19. Judgment for dissolution was entered in the case on January 29, 2008. The property issues in dispute still remain open. The main property issue involved ownership rights in a bed and breakfast which Trenberth continues to operate. His ex-spouse failed to respond to case communications.

20. After communications to his ex-spouse were returned as undeliverable for two years, on April 1, 2013, Trenberth received new contact information for his ex-spouse. On the same day, Trenberth e-mailed respondent to request that she move forward on the remaining property issues.

21. On April 23, 2013, Trenberth met with respondent.

22. On April 24, 2013, Trenberth e-mailed respondent to state that he had mailed a check to respondent. The check was for \$1,500. Trenberth also asked where to find certain income and expense forms. Respondent failed to respond.

23. On March 20, 2015, Trenberth e-mailed the income and expense forms to respondent.

24. On March 26, 2015, Trenberth e-mailed respondent to request a response to his March 20, 2015 e-mail. Respondent replied on the same day that she would "start working on your pleadings next week."

25. On April 16, 2015, Trenberth e-mailed respondent to inquire as to the status of his case. Respondent received the e-mail but failed to respond.

26. On April 29, 2015, Trenberth e-mailed respondent to inquire about the status and to ask if he could get a court date.

27. On April 30, 2015, respondent e-mailed Trenberth, stating that her response was delayed by health issues. Respondent also requested that Trenberth send additional financial documents.

28. On May 1, 2015, Trenberth e-mailed the financial documents. Respondent received the e-mail but failed to respond.

29. On May 12, 2015, Trenberth e-mailed an additional financial documents. Trenberth further asked, "Let me know what's next." Respondent received the e-mail but failed to respond.

30. On July 2, 2015, Trenberth e-mailed respondent, stating, "I sent over everything you asked for 6 weeks ago and have not heard from you. Have we filed?" Respondent received the e-mail but failed to respond.

31. On July 23, 2015, Trenberth e-mailed respondent, stating, "I am not getting responses from you. If you can't work my case I'll need to know so I can move on. I have some issues at hand that require [my ex-spouse] Jacquee off of the corporation. I must hear back from you on this. I sent the financials you requested nearly 2 months ago."

32. On July 27, 2015, respondent replied, "Sorry I had to take some time off this past week. I will send you the proposed paperwork to review tomorrow afternoon."

33. On July 28, 2015, Trenberth e-mailed respondent, stating, "I look forward to seeing what you send." Respondent received the e-mail but failed to respond.

34. On April 20, 2016, Trenberth e-mailed respondent, stating, "I have not received anything from you since the attached email dated 7/27/15 where you said 'I will send you the proposed paperwork to review tomorrow afternoon.' What's up? Are you still interested in this case or do I need to find a new lawyer? Please let me know where we stand."

35. On April 22, 2016, respondent replied. Respondent apologized that "it has taken me so long to respond" and stated "I did get your paperwork, I will work on it and send you the proposed draft, and maybe we can speak on the phone late Monday?"

36. On April 26, 2016, Trenberth e-mailed respondent, stating, "I still have not received the info that you said you would send by Monday?" Respondent received the e-mail but failed to respond.

37. On September 21, 2016, Trenberth e-mailed respondent to terminate her employment. Trenberth requested a refund of \$1,000 of the \$1,500 paid on April 24, 2013 and requested his file. Trenberth offered to pick up the file. Respondent received the e-mail but failed to respond.

38. As of January 2018, respondent had not responded to Trenberth, had not returned his file, nor had she refunded any unearned fees or provided invoices, although the fee agreement contemplated invoices.

39. The State Bar sent letters of inquiry to respondent on December 15, 2017 and January 24, 2018. Respondent did not respond substantively to either letter.

#### CONCLUSIONS OF LAW:

40. By failing to perform legal services for Trenberth once retained by him, namely, by failing to litigate the disputed ownership rights in *Trenberth v. Trenberth* and by failing to complete the necessary pleadings and court filings as agreed, respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

41. By failing to respond to Trenberth's status inquiries and e-mails between April 24, 2013 and September 21, 2016 regarding the *Trenberth v. Trenberth* matter, respondent failed to respond to client inquiries, in willful violation of Business and Professions Code section 6068(m).

42. By failing to promptly release the Trenberth client file on or after September 21, 2016, respondent failed to release a file, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

43. By failing to refund unearned fees to Trenberth upon termination of her employment, respondent failed to refund unearned fees, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

44. By failing to send Trenberth periodic invoices as contemplated in the fee agreement, respondent failed to render accounts of client funds, in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

45. By failing to respond substantively to the State Bar's letters of December 15, 2017 and January 24, 2018, respondent failed to cooperate and participate in a disciplinary investigation in willful violation of Business and Professions Code section 6068(i).

## **AGGRAVATING CIRCUMSTANCES**

**Prior Record of Discipline (Std. 1.5(a)):** See attached prior record of discipline and modification order thereof. Standard 1.5(a) provides that "a prior record of discipline" is an aggravating circumstance. On April 9, 2016, the Court imposed a private reproof with public disclosure on respondent, case no. 14-O-06419-PEM. The reproof was pursuant to a stipulation executed by the parties. Respondent stipulated that through gross negligence she issued two CTA checks against insufficient funds in violation of Business and Professions Code, section 6106, as well as failing to cooperate in the State Bar's investigation. This misconduct occurred between July 1, 2014, and September 18, 2014, when she issued the two NSF CTA checks, and during April through September 2015, when she failed to cooperate with the State Bar.

In the matter at hand, the Cameron misconduct occurred between January and August 2015, when she failed to perform and communicate, and between January and March 2017 when she failed to cooperate with the State Bar. The Trenberth misconduct occurred between April 1, 2013 and September 21, 2016, and the failure to cooperate between December 2017 and February 2018. Therefore, there is overlap between the prior discipline and the pending matters. While the issuance of NSF checks did not reoccur, respondent's failure to cooperate occurred in all three matters. Therefore, respondent's prior record of discipline warrants aggravating weight. (*In the Matter of DeClue* (Review Dept. 2016) 5 State Bar Ct. Rptr. 437, 444.)

**Multiple Acts of Wrongdoing (Std. 1.5(b)):** Standard 1.5(b) provides that "multiple acts of wrongdoing" is an aggravating circumstance. Respondent has been charged with six counts of misconduct in each of two matters.

**Significant Harm to Client, Public or Administration of Justice (Std. 1.5(j)):** Standard 1.5(j) provides that "significant harm to the client, the public, or the administration of justice" is an aggravating circumstance. Here, Mr. Cameron received no benefit from the mere filing of the notice of appeal, and \$9,000 was not an insignificant sum to Mr. Cameron. Furthermore, Mr. Cameron permanently lost his right to appeal the family law court rulings. After the client hired new counsel to



replace respondent, his ex-wife's attorney belatedly provided the job reports she was supposed to provide to respondent on a weekly basis to Cameron's new counsel. Respondent had never notified the client that she had stopped receiving the weekly reports. Because the reports were not provided weekly, as ordered, there was no way of retroactively assessing their validity/accuracy and they did not provide a basis for the new attorney to seek modification of Cameron's child support obligation. Furthermore, the Department of Child Support Services, who was a party to the appeal, was prejudiced by the work they had to perform during the time the appeal was revived (February 28, 2015 – April 20, 2015), before the appeal was dismissed for the final time.

Mr. Trenberth was also harmed. Not only has he failed to obtain any benefit from his payment of \$1,500 to respondent, but he suffered significant delays in moving forward with financial and ownership-related actions for his bed and breakfast.

**Failure to Make Restitution (Std. 1.5(m)):** Standard 1.5(m) provides that "failure to make restitution" is an aggravating circumstance. Here, although respondent received a \$9,000 advance fee expressly for appealing family court rulings on behalf of Cameron, she took no action which benefitted Cameron, and, after abandoning his appeal, to date, she has not refunded any portion of the advance fee. Similarly, respondent received \$1,500 from Trenberth but took no action which benefited him and, to date, she has not refunded the money.

## **MITIGATING CIRCUMSTANCES**

**Emotional/Physical Difficulties:** Respondent was diagnosed in April 2015 with Major Depressive Disorder, recurrent and Anxiety Disorder, Not Otherwise Specified, and diagnosed in May 2015 with myopia, cataracts, and glaucoma. Respondent has provided records to confirm the diagnoses. This diagnosis was contemporaneous with the misconduct described above. In her prior disciplinary proceeding respondent stipulated that she would obtain counselling for emotional difficulties. (In *Spaith v. State Bar* (1996) 3 Cal. State Bar Ct. Rptr. 511, [little weight can be given to emotional problems without assurance that they are solved.]) Since May 2016, respondent has been obtaining the mental health counseling on a weekly basis.

**Pretrial Stipulation:** By entering into this stipulation, respondent has acknowledged the misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].) Mitigation credit for entering into a pretrial stipulation is somewhat offset by respondent's earlier failure to cooperate.

## **AUTHORITIES SUPPORTING DISCIPLINE**

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to standards are to this source.) The standards help fulfill the primary purposes of discipline, which include: protection of the public, the

courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

Where a member commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.

All of respondent’s misconduct, other than the failure to cooperate with the State Bar in its investigation, would fall under standard 2.7 “Performance, Communication or Withdrawal Violations,” specifically standard 2.7(b). Standard 2.7(b) states: “Actual suspension is the presumed sanction for performance, communication, or withdrawal violations in multiple client matters, not demonstrating habitual disregard of client interests.” With respect to the failure to cooperate violation, standard 2.12(b) states that reproof is the presumed sanction, but because standard 2.7(b) provides for the more severe sanction, it is the controlling standard.

Standard 1.8(a) provides that “If a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.” Here, there is some overlap in time between the prior misconduct and the misconduct at issue. Indeed, the misconduct at issue in the Cameron matter occurred both before and after the misconduct at issue in the prior discipline. Actual suspension would be greater than the discipline previously imposed, private reproof.

Looking at the aggravating and mitigating factors, there are two mitigating factors – emotional/physical difficulties and entering into a pretrial stipulation. The emotional/physical difficulties existed during the prior misconduct and discipline, though there is some overlap in time with the pending misconduct and discipline. The degree of mitigation supported by respondent’s entering into a pretrial stipulation is somewhat offset by respondent’s prior lack of cooperation with the State Bar’s investigations. There are four aggravating factors: prior record of discipline, multiple acts of wrongdoing, significant harm, and failure to make restitution. Because there are both multiple aggravating and multiple mitigating factors,

and because respondent has been receiving treatment for her emotional/physical difficulties since the time of her prior discipline, discipline in the middle of the presumed range is appropriate.

Under standard 2.7(b), actual suspension is the appropriate level of discipline for respondent. This is supported by case law. In *Seltzer*, the attorney was paid \$6,000 to resolve a construction dispute. (*In re Seltzer* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263, 265.) The attorney failed to perform and failed to communicate with the client. (*Id.*) The attorney had one prior discipline. The attorney received an actual suspension of six months and until she paid restitution. In *Seltzer*, the prior discipline included a 60-day actual suspension. Here, the prior discipline was limited to a private reproof with public disclosure; therefore, a modest downward departure from the six months imposed in *Seltzer* is appropriate.

In sum, the misconduct here involved multiple acts of misconduct, multiple clients suffered harm (both financial and non-financial harm), respondent has failed to make restitution, and respondent has a prior discipline. On the other hand, respondent had physical and emotional difficulties at the time of the misconduct but has been receiving treatment, and respondent has also entered into this pretrial stipulation. Taking these factors into account as well as the relevant case law, and pursuant to standard 2.7(b), actual suspension of 90 days with the above conditions is the appropriate level of discipline.

#### **COSTS OF DISCIPLINARY PROCEEDINGS**

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of July 5, 2018, the discipline costs in this matter are \$7,167. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

#### **EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT**

Respondent may not receive MCLE credit for completion of State Bar Ethics School or any other education course(s) to be ordered as a condition of actual suspension. (Rules of Proc. of State Bar, rule 3201.)

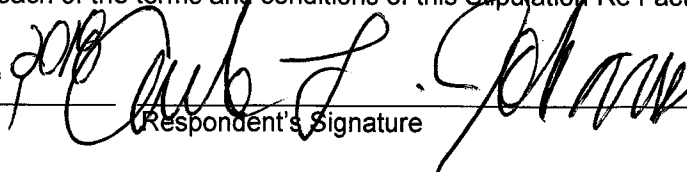
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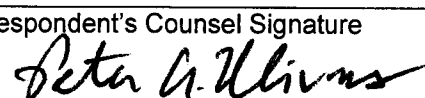
In the Matter of:  
CARLA LOU JOHANSEN

Case Number(s):  
16-O-17692-PEM  
17-O-7197

### SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>July 5, 2018</u>	<u></u>	<u>Carla L. Johansen</u>
Date	Respondent's Signature	Print Name

<u>July 5, 2018</u>	<u></u>	<u>Peter A. Klivans</u>
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of:  
CARLA LOU JOHANSEN

Case Number(s):  
16-O-17692-PEM; 17-O-07197-PEM

### ACTUAL SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☐ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☒ All Hearing dates are vacated.

On p. 2, par. B. (1)(b) – delete “April 9” and insert its place “April 26” as the effective date of the prior discipline.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See Rules Proc. of State Bar, rule 5.58(E) & (F).) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after the filed date of the Supreme Court order.** (See Cal. Rules of Court, rule 9.18(a).)

Date

JUL 18, 2018

  
LUCY ARMENDARIZ  
Judge of the State Bar Court

**FILED**

SEP - 8 2016

**STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT - SAN FRANCISCO**

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

In the Matter of	)	Case No.: 14-O-06419-LMA
	)	
CARLA LOU JOHANSEN,	)	ORDER RE MOTION TO MODIFY
	)	CONDITIONS OF REPROVAL AND
Member No. 221412	)	REQUEST TO REMOVE PORTIONS OF
	)	STIPULATION FROM STATE BAR
<u>A Member of the State Bar.</u>	)	WEBSITE

On August 8, 2016, respondent Carla Lou Johansen (Respondent) filed a motion to:

(1) modify the conditions of her private reproval in the above-listed matter (modification motion); and (2) remove "confidential mental health issues" from the copy of her private reproval posted on the State Bar's website (motion to remove). Respondent's modification motion specifically sought to modify Respondent's psychiatric/psychological treatment conditions to permit her to obtain psychiatric or psychological treatment from a licensed Marriage and Family Therapist.

On August 19, 2016, the Office of Probation of the State Bar of California filed its response. The Office of Probation did not oppose the modification motion, but did oppose the motion to remove.

On August 31, 2016, the Office of Chief Trial Counsel of the State Bar of California (State Bar) filed an additional response to Respondent's motion. Similar to the Office of Probation, the State Bar did not oppose the modification motion, but did oppose the motion to remove.

The modification motion provided specific facts demonstrating the requested relief is appropriate and serves the objectives of the conditions of reproval. Consequently, the court finds that the modification motion is consistent with protecting the public, respondent's successful rehabilitation, and maintaining the integrity of the legal profession.

Accordingly, the court issues the following orders:

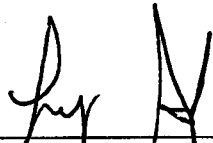
1. Good cause having been shown, the modification motion is **GRANTED**, and the psychiatric/psychological treatment conditions of reproval in the above-listed matter are modified as follows:

On page 9 of the Stipulation, section b, all references to "licensed psychiatrist, psychologist, or clinical social worker" are deleted and in their place is inserted, "licensed psychiatrist, psychologist, clinical social worker, or Marriage and Family Therapist."

2. No good cause having been shown, the motion to remove is **DENIED**.

**IT IS SO ORDERED.**

Dated: September 8, 2016

  
\_\_\_\_\_  
LUCY ARMENDARIZ  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on September 8, 2016, I deposited a true copy of the following document(s):

ORDER RE MOTION TO MODIFY CONDITIONS OF REPROVAL AND REQUEST  
TO REMOVE PORTIONS OF STIPULATION FROM STATE BAR WEBSITE

in a sealed envelope for collection and mailing on that date as follows:


- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

STEVEN H. BERNIKER  
LAW OFFICE OF STEVEN H. BERNIKER APC  
2424 ARDEN WAY STE 360  
SACRAMENTO, CA 95825

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

TERRIE GOLDADE, Probation, Los Angeles  
SHERRIE B. McLEITCHIE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 8, 2016.

  
\_\_\_\_\_  
Mazie Yip  
Case Administrator  
State Bar Court



(Do not write above this line.)

<b>State Bar Court of California</b> <b>Hearing Department</b> <b>San Francisco</b> <b>REPROVAL</b>		
<b>Counsel For The State Bar</b>  Sherrie B. McLetchie Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2297  Bar # 85447	<b>Case Number(s):</b> 14-O-06419-PEM  <b>NOT FOR PUBLICATION</b>	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b> <i>LL</i>  APR 05 2016  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<b>In Pro Per Respondent</b>  Carla Lou Johansen Law Offices of Carla L. Johansen 2414 16th Street Sacramento, CA 95818 (844) 846-3367  Bar # 221412	<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</b>  <b>PRIVATE REPROVAL</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> <b>CARLA LOU JOHANSEN</b>  Bar # 221412  A Member of the State Bar of California (Respondent)		

**Note:** All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted December 2, 2002.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 13 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

*PC*

(Do not write above this line.)

- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- ☐ Costs are added to membership fee for calendar year following effective date of discipline (public reproof).
- ☒ Case ineligible for costs (private reproof).
- ☐ Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
- ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
- ☐ Costs are entirely waived.

- (9) The parties understand that:

- (a) ☐ A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
- (b) ☒ A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
- (c) ☐ A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1) ☐ Prior record of discipline
- (a) ☐ State Bar Court case # of prior case
- (b) ☐ Date prior discipline effective
- (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
- (d) ☐ Degree of prior discipline
- (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline".

(Do not write above this line.)

- (2) ☐ **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6) ☐ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.
- (7) ☒ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property. See Stipulation Attachment page 10.
- (8) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) ☐ **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) ☒ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See Stipulation Attachment page 10.
- (12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) ☐ **Restitution:** Respondent failed to make restitution.
- (14) ☐ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) ☐ **No aggravating circumstances are involved.**

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(l) & 1.6]. Facts supporting mitigating circumstances are required.**

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) ☒ **No Harm:** Respondent did not harm the client, the public, or the administration of justice. See Stipulation Attachment page 11.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.

(Do not write above this line.)

- (4) ☐ **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances are involved.**

**Additional mitigating circumstances:**

No prior discipline -- See Stipulation Attachment page 11.

Emotional and Physical Difficulties -- See Stipulation Attachment page 11.

Pretrial Stipulation -- See Stipulation Attachment page 11.

**D. Discipline:**

- (1) ☐ **Private reproof (check applicable conditions, if any, below)**
- (a) ☐ Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) ☒ Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) ☐ **Public reproof (Check applicable conditions, if any, below)**

**E. Conditions Attached to Reproval:**

(Do not write above this line.)

- (1) ☒ Respondent must comply with the conditions attached to the reprobation for a period of one year.
- (2) ☒ During the condition period attached to the reprobation, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the reprobation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of the reprobation during the preceding calendar quarter. Respondent must also state in each report whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 (thirty) days, that report must be submitted on the next following quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the condition period and no later than the last day of the condition period.
- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the conditions attached to the reprobation.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.

☐ No Ethics School recommended. Reason:
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☐ Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the reprobation.

(Do not write above this line.)

---

☒ No MPRE recommended. Reason: The protection of the public and the interests of the respondent do not require passage of the MPRE in this case. (See in the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 181.).

(11) ☒ The following conditions are attached hereto and incorporated:

☐ Substance Abuse Conditions

☐ Law Office Management Conditions

☒ Medical Conditions

☒ Financial Conditions

**F. Other Conditions Negotiated by the Parties:**

None.

(Do not write above this line.)

In the Matter of: <b>CARLA LOU JOHANSEN</b>	Case Number(s): <b>14-O-06419-PEM</b>
--	--

## Financial Conditions

### a. Restitution

- ☐ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

### b. Installment Restitution Payments

- ☐ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- ☐ If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

### c. Client Funds Certificate

- ☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

(Do not write above this line.)

**b. Respondent has kept and maintained the following:**

- i. A written ledger for each client on whose behalf funds are held that sets forth:
  - 1. the name of such client;
  - 2. the date, amount and source of all funds received on behalf of such client;
  - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
  - 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
  - 1. the name of such account;
  - 2. the date, amount and client affected by each debit and credit; and,
  - 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

**c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:**

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

**d. Client Trust Accounting School**

- ☒ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.



(Do not write above this line.)

In the Matter of:  
**CARLA LOU JOHANSEN**

Case Number(s):  
**14-O-06419-PEM**

### Medical Conditions

- a. ☐ Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.
- b. ☒ Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of two times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for ~~days or~~ ~~months or~~ ~~years or~~ the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- c. ☒ Upon the request of the Office of Probation, respondent must provide the Office of Probation with medical waivers and access to all of respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

#### Other:

Respondent will continue treatment for cataracts, glaucoma, and myopia, including, but not limited to, the use of the appropriate vision aids, i.e., eyeglasses and/or contact lenses, during the period of her probation and declare in each report to the Office of Probation that she has done so.

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF: CARLA LOU JOHANSEN

CASE NUMBER: 14-O-06419-PEM

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that she is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

**Case No. 14-O-06419 (Reportable Action)**

**FACTS:**

1. On July 1, 2014, and September 18, 2014, respectively respondent issued the following checks from respondent's client trust account at US Bank, account no. 1-534-9910-XXXX ("CTA") when respondent was grossly negligent in not knowing that there was insufficient funds in the CTA to pay the checks:

<u>CHECK #</u>	<u>CHECK DATE</u>	<u>CHECK AMT.</u>	<u>PAYEE</u>	<u>MEMO</u>
3064	07/01/14	\$435	Sacramento Sup Ct	filing Williams
3069	09/18/14	\$800	Carla Johansen	-----

2. Respondent did not provide a substantive response to the State Bar's letters of March 20, 2015, May 1, 2015, and August 26, 2015, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case no. 14-O-06419, in willful violation of Business and Professions Code, section 6068(i).

**CONCLUSIONS OF LAW:**

3. By issuing two CTA checks against insufficient funds when respondent was grossly negligent in not knowing that there were insufficient funds in her CTA, respondent committed an act involving moral turpitude, dishonesty or corruption in wilful violation of Business and Professions Code, section 6106.

4. By not providing a substantive response to the State Bar's letters of March 20, 2015, May 1, 2015, and August 26, 2015, respondent failed to cooperate and participate in a pending disciplinary investigation.

**AGGRAVATING CIRCUMSTANCES.**

**Trust Violations (Std. 1.5(e)):** Issuing a CTA check payable to a Superior Court against insufficient funds and issuing a CTA check to herself against insufficient fund are trust violations.

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent issued two CTA checks against insufficient funds, and failed to respond to provide a substantive response in the State Bar's investigation of the two CTA checks issued against insufficient funds despite three letters from State Bar investigators.

#### MITIGATING CIRCUMSTANCES.

**No Prior Discipline:** Respondent was admitted to the practice of law on December 2, 2002, and the misconduct commenced in July 2014. Respondent had no prior record of discipline over 12 years in practice. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [attorney with 12 years of practice without prior discipline entitled to mitigation].)

**No Harm (Std. 1.6(c)):** There is no evidence that respondent's misconduct harmed a client, the public, or the administration of justice.

**Emotional/Physical Difficulties:** Respondent was diagnosed in April 2015 with Major Depressive Disorder, recurrent and Anxiety Disorder, Not Otherwise Specified, and diagnosed in May 2015 with myopia, cataracts, and glaucoma. Respondent has provided records to confirm the diagnoses. She has agreed to obtain counselling for emotional difficulties. (*In Spaith v. State Bar* (1996) 3 Cal. State Bar Ct. Rptr. 511, [little weight can be given to emotional problems without assurance that they are solved.]) Respondent has obtained treatment and the appropriate visual aids to address her vision issues. (*In the Matter of Lawrence* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239 246-247 [mitigation for physical difficulties addressed by surgery].)

**Pretrial Stipulation:** Although respondent failed to cooperate in the State Bar's investigation, she has stipulated to facts, conclusions of law, and disposition in order to resolve her disciplinary proceeding prior to trial, thereby avoiding the necessity of trial and saving the State Bar Court time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

#### AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this matter, respondent admits to committing two acts of professional misconduct. Standard 1.7(a) requires that where a respondent "commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed."

The most severe sanction applicable to respondent's misconduct is found in standard 2.11, which applies to respondent's violation of Business and Professions Code, section 6106. Standard 2.11 provides that "Disbarment or actual suspension is the presumed sanction for an act of moral turpitude, dishonesty, fraud, corruption, intentional or grossly negligent misrepresentation, or concealment of a material fact. The degree of sanction depends on magnitude of the misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the practice of law." Respondent's issuance of two CTA checks against insufficient funds amounts to moral turpitude (*Alkow v. State Bar* (1952) 38 Cal.2d 257 [attorney's issuance of two checks against insufficient funds from an account "designated 'Harry Alkow, Trustee,' wherein he kept his own funds and those of clients" amounted to moral turpitude]).

As stated above, "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." Here, deviation from standard 2.11 is appropriate for two reasons. First, respondent's misconduct was the result of gross negligence, rather than intentional dishonesty. Second, the magnitude of the misconduct is not great. The CTA checks in question were, respectively, \$435 and \$800. The \$435 CTA check, although written against insufficient funds, was honored by respondent's bank and thus the payee, the Sacramento Superior Court, was, in fact, paid. The \$800 check – also honored by respondent's bank – was written to respondent herself. Thus, no clients or courts were harmed. The standard which applies to respondent's other misconduct, the failure to cooperate in the State Bar's investigation, is standard 2.12(b). Standard 2.12(b) provides that: "Reproval is the presumed sanction for a violation of the duties required of an attorney under Business and Professions Code section 6068(i), (j), (l) or (o)."

Since there is no evidence of harm to clients, the courts, or the public, preservation of public confidence in the legal profession and maintenance of the highest professional standards should not be negatively impacted by a deviation from the Standards in this case. However, given that respondent, an active practicing member of the Bar, did not cooperate in our investigation and to ensure that respondent discontinues her misconduct, actual discipline is appropriate and is necessary to protect the public. A reproval conditioned on usual conditions, Ethics School and CTA School, and appropriate medical conditions should adequately protect the public and assist respondent in avoiding the issuance of CTA checks against insufficient funds. "Rehabilitation can also be an objective in determining the appropriate sanction in a particular case, so long as it is consistent with the primary purposes of discipline." (Std. 1.1.)

#### **EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT**

Respondent may not receive MCLE credit for completion of State Bar Ethics School or State Bar Client Trust Accounting School ordered as a condition of reproval. (Rules Proc. of State Bar, rule 3201.)

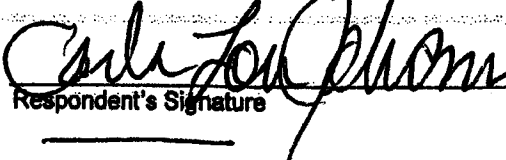
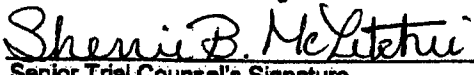
(Do not write above this line.)

In the Matter of:  
CARLA LOU JOHANSEN

Case number(s):  
14-O-06419-PEM

### SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>3/31/2016</u> Date	<u></u> Respondent's Signature	<u>Carla Lou Johansen</u> Print Name
<u>April 1, 2016</u> Date	<u></u> Senior Trial Counsel's Signature	<u>Sherrie B. McLetchie</u> Print Name

(Do not write above this line.)

In the Matter of:  
CARLA LOU JOHANSEN

Case Number(s):  
14-O-06419-PEM

### REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- ☒ All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) Otherwise the stipulation shall be effective 15 days after service of this order.

Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

Date

April 5, 2016

  
LUCY ARMENDARIZ  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, On April 5, 2016, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

CARLA L. JOHANSEN  
LAW OFFICE OF CARLA L.  
JOHANSEN  
2414 16TH ST  
SACRAMENTO, CA 95818

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Sherrie B. McLetchie, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 5, 2016.



Laurretta Cramer  
Case Administrator  
State Bar Court

1 Carla L. Johansen  
2 2414 16<sup>th</sup> Street #2  
3 Sacramento CA 95818  
4 (530) 205-6211  
5 Respondent, Self Represented

**FILED** *lee*

JAN 06 2016

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

**RECEIVED**

STATE BAR COURT

DEC 22 2015

HEARING DEPARTMENT-SAN FRANCISCO

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

10 In the Matter of  
11 CARLA LOU JOHANSEN  
12 No. 221412

Case No. 14-O-06419

(PROPOSED) ANSWER TO  
DISCIPLINARY CHARGES

14 A member of the State Bar

16 Comes now Respondent and answers to the Notice of Disciplinary Charges filed  
17 October 27, 2015.

**PROPOSED) ANSWER TO DISCIPLINARY CHARGES Count One**  
**Case No. 14-O-06419**

Business and Professions Code, section 6106  
[Moral Turpitude-NSF Transactions]

21 Respondent admits checks went into overdraft and she was negligent in keeping  
22 track of this account in accordance with State Bar Rules, but rather that the overdrafts  
23 and disorganized bookkeeping occurred not from Moral Turpitude but as a result of  
24 medical reasons, namely her PTSD and severe depression for which she was trying  
25 during this time period to find competent medical treatment. (See accompanying

(PROPOSED) ANSWER TO DISCIPLINARY CHARGES



1 Declaration of Carla Johansen in Support of Motion to Set Aside Default.) Respondent  
2 requests being placed in the Alternative Discipline Program to address these issues.

3  
4 **Count Two**

5 **Case No. 14-O-06419**

6 **Business and Professions Code, section 6068 (i)**  
**[Failure to Cooperate in State Bar Investigation]**

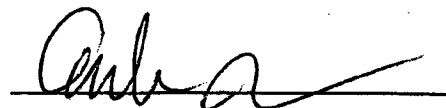
7 Respondent admits she failed to respond as required, but similarly this occurred as a  
8 result of medical reasons, namely having severe problems with her eyesight during this  
9 time in addition to her PTSD and severe depression for which she was trying during this  
10 time period to find competent medical treatment. (See accompanying Declaration of  
11 Carla Johansen in Support of Motion to Set Aside Default.) Respondent again requests  
12 being placed in the Alternative Discipline Program to address these issues.

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14 Respectfully submitted

15

16 December 21, 2015



17 Carla Johansen  
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27 (PROPOSED) ANSWER TO DISCIPLINARY CHARGES

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Verification of Pleading (Code Civ. Proc., § 446)

Declaration under Penalty of Perjury Form (Code Civ. Proc., §§ 446, 2015.5)

by Party

In the Matter of CARLA LOU JOHANSEN

CARLA LOU JOHANSEN, declare:

I am the Respondent in the above-entitled matter.

I have read the foregoing Answer and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe it to be true.

Executed on December 21, 2015, at Sacramento, in Sacramento County, California.

declare under penalty of perjury that the foregoing is true and correct.



(PROPOSED) ANSWER TO DISCIPLINARY CHARGES

FILED

OCT 27 2015

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

1 STATE BAR OF CALIFORNIA  
2 OFFICE OF CHIEF TRIAL COUNSEL  
3 JAYNE KIM, No. 174614  
4 CHIEF TRIAL COUNSEL  
5 JOSEPH R. CARLUCCI, No. 172309  
6 DEPUTY CHIEF TRIAL COUNSEL  
7 GREGORY P. DRESSER, No. 136532  
8 ASSISTANT CHIEF TRIAL COUNSEL  
9 SUSAN CHAN, No. 233229  
10 SUPERVISING SENIOR TRIAL COUNSEL  
11 SHERRIE B. McLEITCHIE, No. 85447  
12 SENIOR TRIAL COUNSEL  
13 180 Howard Street  
14 San Francisco, California 94105-1639  
15 Telephone: (415) 538-2297  
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## STATE BAR COURT

## HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of:

Case No. 14-O-06419

CARLA LOU JOHANSEN,  
No. 221412,

NOTICE OF DISCIPLINARY CHARGES

A Member of the State Bar

**NOTICE - FAILURE TO RESPOND!**

IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE  
WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT  
THE STATE BAR COURT TRIAL:

- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU  
WILL NOT BE PERMITTED TO PRACTICE LAW;
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN  
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION  
AND THE DEFAULT IS SET ASIDE, AND;
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.  
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE  
OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN  
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT  
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,  
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. Carla Lou Johansen ("respondent") was admitted to the practice of law in the State of  
4 California on December 2, 2002, was a member at all times pertinent to these charges, and is  
5 currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 14-O-06419  
8 Business and Professions Code, section 6106  
9 [Moral Turpitude – NSF Transactions]

10 2. On or about September 5, 2014, through on or about September 18, 2014, respondent  
11 issued the following checks from respondent's client trust account at US Bank, account no.  
12 1-534-9910-XXXX ("CTA") when respondent knew or was grossly negligent in not knowing  
13 that there was insufficient funds in the CTA to pay the checks, and thereby committed an act  
14 involving moral turpitude, dishonesty or corruption in wilful violation of Business and  
15 Professions Code, section 6106:

<u>CHECK #</u>	<u>CHECK DATE</u>	<u>CHECK AMT.</u>	<u>PAYEE</u>	<u>MEMO</u>
17 3064	07/01/14	\$435	Sacramento Sup Ct	filing Williams
18 3069	09/18/14	\$800	Carla Johansen	-----

19 COUNT TWO

20 Case No. 14-O-06419  
21 Business and Professions Code, section 6068(i)  
22 [Failure to Cooperate in State Bar Investigation]

23 3. Respondent failed to cooperate and participate in a disciplinary investigation pending  
24 against respondent by failing to provide a substantive response to the State Bar's letters of March  
25 20, 2015, May 1, 2015, and August 26, 2015, which respondent received, that requested  
26 respondent's response to the allegations of misconduct being investigated in case no.  
27 14-O-06419, in willful violation of Business and Professions Code, section 6068(i).

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# DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 14-O-06419

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

## NOTICE OF DISCIPLINARY CHARGES



**By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))**

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco.



**By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))**



**By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))**

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service (UPS).



**By Fax Transmission: (CCP §§ 1013(e) and 1013(f))**

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.



**By Electronic Service: (CCP § 1010.6)**

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.



**(for U.S. First-Class Mail)** in a sealed envelope placed for collection and mailing at San Francisco, addressed to: (see below)



**(for Certified Mail)** in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,  
Article No.: 9414 7266 9904 2011 9752 59 at San Francisco, addressed to: (see below)



**(for Overnight Delivery)** together with a copy of this declaration, in an envelope, or package designated by UPS,  
Tracking No.: addressed to: (see below)

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
Carla L. Johansen, Respondent	Carla L. Johansen Law Office of Carla L. Johansen 2414 16th St Sacramento, CA 95818	Electronic Address	

- ☐ via Inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service (UPS). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: October 27, 2015

SIGNED:

  
Meagan McGowan  
Declarant



The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST July 6, 2018

State Bar Court, State Bar of California,  
Los Angeles

By  
Clerk

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on July 18, 2018, I deposited a true copy of the following document(s):

### STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

CARLA L. JOHANSEN  
CARLA L. JOHANSEN, ESQ  
2414 16TH STR # 2  
SACRAMENTO, CA 95818 - 2330

- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

- ☐ by overnight mail at , California, addressed as follows:

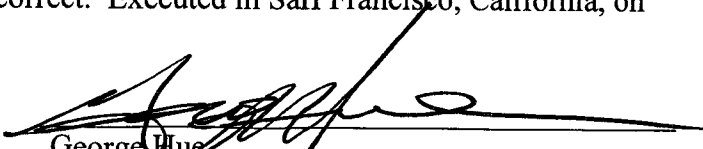
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.

- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Peter A. Klivans, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 18, 2018.

  
George Hue  
Court Specialist  
State Bar Court